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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
Applicant: JEFFREY L. HUCKINS

Serial No.: 09/512,226

Filed: February 24, 2000

For: PROVIDING CONTENT
DESCRIPTION AND
CONNECTION INFORMATION IN
DIGITAL BROADCAST
NETWORKS

§ Group Art Unit: 2614
§
§
§ Examiner: Michael W. Hoyer
§
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§ Atty. Dkt. No.: INTL-0270-US (P7593)
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APPEAL BRIEF

Sir:

This Appeal Brief is submitted, in accordance with the Notice of Appeal filed August 18, 2003, by the Appellant to the Board of Patent Appeals and Interferences. Appeal is hereby taken from the final rejection of Claims 1-13 and 26-28, that rejection rendered in Paper No. 5, mailed May 20, 2003 ("the Final Rejection").

I. REAL PARTY IN INTEREST

The real party in interest is Intel Corporation, the assignee of the present application by virtue of the assignment recorded at Reel/Frame 010640/0037.

II. RELATED APPEALS AND INTERFERENCES

None.

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Date of Deposit: October 20, 2003

I hereby certify under 37 CFR 1.8(a) that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage on the date indicated above and is addressed to the Mail Stop Appeal Brief-Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.


Jennifer Juarez

III. STATUS OF THE CLAIMS

Appellant's Claims 1, 2, 5-11, 13 and 26-28 stand finally rejected under 35 U.S.C. §102(b) as being anticipated by EP 0 828 390 A2 ("Arsenault, et al."). Appellant's Claims 3, 4, and 12 stand finally rejected under 35 U.S.C. § 103(a) as being unpatentable over Arsenault, et al. in view of U.S. Patent No. 5,686,954 ("Yoshinobu, et al.").

IV. STATUS OF AMENDMENTS

All Amendments previously presented by the Appellant have been entered as of the date of this Appeal.

V. SUMMARY OF THE INVENTION

In one embodiment Appellant's invention, as depicted in FIG. 1, comprises an information delivery system 10, a content creator 12, a transport operator system 14, and a plurality of receivers 16. The receivers 16 may be located at various user receiving sites, including homes, offices, entertainment facilities, or other locations. The content creator 12 may originate ancillary data and television content (or other types of content including audio and/or video data) that is transmitted by the transport operator system 14. Alternatively, the content creator 12 may create ancillary data, with television content provided by another source, to the transport operator system 14.

Ancillary data may include graphics (e.g., web pages, multimedia information, or other digital data files), presentation layouts, electronic content guides and synchronization information. The transport operator system 14 provides an enhanced content delivery infrastructure that may include terrestrial, cable, satellite, or other types of transmission facilities (either analog or digital). The audio/video content and ancillary data may be transmitted over a

transport medium 22, which may be a terrestrial, cable, satellite, or other type of link, to the receivers 16. The user receivers 16 may include televisions, set-top boxes, personal computers, or other types of systems adapted to receive audio/video content and associated ancillary data.

Announcements may be transmitted either separately from the audio/video content or in conjunction therewith. An announcement may provide information useful for understanding what information has been transmitted and for coordinating information transmitted at different times that relates to different subject matters. Thus, as used herein, the term "announcement" is merely intended to refer to information other than content that is provided over the broadcast system.

Thus, an announcement may include both connection information and content description information. Content description information is useful to obtain information about the substance of the information that has been transmitted in the content stream. Thus, content description information may be utilized for generating electronic content guides or other displays at the receivers. Connection information provides information about the transport that has been used to provide the information to the receivers. Depending on the service multiplex and transport that is chosen for the particular system, different information may be provided as connection information.

Thus, in one embodiment of the present invention, the audio/video content 24 may be received from a content creator 12 and transmitted by a transport operator over a service multiplex and transport 22 to a plurality of user receivers 16. The transport operator 14 may also transmit, either with that content or separately therefrom, content description information 26 and connection information 28.

Referring to Fig. 2, the transport operator system 14 may include a receiving port 102 to receive audio/video content information from a content creator 12 over a link 24. Content description information 26 and the connection information 28 may be provided to a controller 106 in the transport operator system 14. The controller 106 may operate under control of a software routine 108 (referred to as a transport routine). The transport routine 108 may initially be stored in a storage medium 104 and loaded by the controller 106 for execution. The information 28 may also be temporarily stored in the storage medium 104.

The transport operator may receive content description information as indicated at block 26 as well as connection information as indicated at block 28. The content description information, which may be in the form of meta-data, may be part of an announcement stream such as a data program guide (DPG). The content description provides information about the nature of the audio/video content that is also being transmitted. Thus, the transport system 14 may transmit a separate announcement which includes the content description information. In addition, the transport operator system 14 may provide a separate announcement which includes the connection information 28. The connection information identifies the broadcast network connections that carry one or more of the data components that comprise the content associated with a broadcast session. For example, that content may be an event or television program as two examples.

As a result, the content description information may be broadcast as a separate announcement well in advance of the actual connection information. In some embodiments of the present invention, by uncoupling these two components of signaling information, the content description may be transmitted before it is known precisely how the connection to the content will actually be implemented. Once the assignment of a connection has been determined, the

connection information may be transmitted and linked to the previously transmitted content description. This enables dynamic management of the connection information in the broadcast network.

A mechanism may be used to associate distinct data components of content with a logical identifier that identifies a broadcast network connection.

The connection information associated with the logical identifier may be delivered to the receivers 16, providing adequate information to allow a receiver to locate the connection information given a connection identifier. Thus, in one embodiment of the present invention, a connection information decoder component decodes the identifier and links it to the desired information.

In one embodiment of the present invention, separate storage media 113 and 115 coupled to the controller 106 may be provided for storing separately the content description information 26 and the connection information 28. In some embodiments of the present invention, a storage for the connection information 28 may be all that is provided. Thus, the connection information may be accumulated for later transmission. In such case, a template or place holder for the connection information may be stored in the storage 115. The template may provide the necessary linking information to link the connection information to the content description information and/or the audio/video content.

Once the two announcement streams have both arrived at a user receiver 16, the streams may be linked to one another. In addition, it may be desirable to link the content description to the identity, such as a television channel number, of a service carrying the content. It may also be desirable to link the content description to a logical connection identifier for each data component of the content, to whatever granularity is desired. As an example, an "item", "group"

hierarchy model may be defined in which "items" identify the lowest granularity of data components. The items may be coalesced into "groups". In this example, the connection information may be provided at the group level, item level, or some combination of both. For instance, within any given group, a connection identifier value for "use single group connection" may be used by some of the group items while the remainder of the items specify connections of their own. While an example with two levels of granularity is described, any given number of granularity levels may be implemented in this fashion.

The specification of a connection information format may define how to acquire the connection information from a well defined location in the transport stream. Thus, it may be appreciated that the connection information may be provided at a later time, spaced upstream from the associated content description.

Once the content description is acquired from the transport stream, it may be used to point to a specific instance of later received connection information data. The content description and connection information may be managed separately in order to provide the capability to send a content description to the receiver well in advance of knowing (or needing to know) what the connection to the data components of the content are or will be carried on. Thus, the content description may provide an identifier at the group level that "connects" to the content information and an identifier at the item level that "connects" to corresponding information in the connection information.

When the connection information becomes available, the connection information may be developed with appropriate identifiers linking to the identifiers previously provided for the content description, as indicated in block 48. In some cases, a template or place holder that was developed at the same time as the controller developed the content description may be utilized to

insert the connection information. Thus, the connection information may simply be snapped into a template that was created with the appropriate identifiers and stored in the storage 115, in one embodiment of the present invention. Thereafter, the connection information may be transmitted to the receiver 16 as indicated in block 50.

VI. ISSUES

- A. **Are Claims 1-3, 5-13 and 26-28 Patentable Under 35 U.S.C. §102(b) Over Arsenault, et al.?**
- B. **Are Claims 5-8, 13 and 27 Patentable Under 35 U.S.C. §102(b) Over Arsenault, et al.?**
- C. **Is Claim 4 Patentable Under 35 U.S.C. §103 Over Arsenault, et al. In View of Yoshinobu, et al., et al.?**

VII. GROUPING OF THE CLAIMS

For purposes of this appeal, Applicant has grouped together Claims 1-3, 5-11, 13, and 26-28; Claims 5-8, 13 and 27; and Claim 4, as set forth above.

VIII. ARGUMENT

- A. **Claims 1-3, 5-13 and 26-28 Are Patentable Under 35 U.S.C. §102(b) Over Arsenault, et al.**

Appellant's independent Claims 1, 10 and 26 are respectfully directed to a method (Claim 1), an article comprising a medium for storing instructions (Claim 10) and a processor-based system (Claim 26) in which there is transmitted (i) content, (ii) a first announcement including connection information for the content, and (iii) a second announcement including a content description for the content. In accordance with Claims 1, 10 and 27, the second announcement is transmitted prior to the assignment of connection information.

In the Final Office Action, independent Claims 1, 10 and 26, as well as dependent Claims 2, 5-9, 10, 12, 13, 27 and 28, were rejected under 35 U.S.C. §102(b) as being anticipated by

Arsenault, et al. In support of the rejection of Appellant's Claims, the Final Office Action asserted:

The claimed step of transmitting a first announcement including connection information for said content is met by an allocation table or "map" 30, which identifies the broadcast resource which is to be utilized at a given time for transmission of a particular input data stream (see col. 13, line 36-col. 14, line 11, also see Map Select ID 98 in Fig. 7). The claimed method of transmitting a second announcement including a content description for said content is met by input data streams 20, which may comprise video information, audio information, data services of various types (e.g. multimedia, database services, software delivery, e-mail, etc.), or other information which is desired for transmission or one or more users (e.g. subscribers) as shown in Figure 1 (see col. 13, lines 1-6, also see input 26 and program information 96 in Fig. 7).

Appellant respectfully maintains that this basis for rejection is improper.

Specifically, a rejection of a claim under 35 U.S.C. § 102(b) requires that a prior art reference disclose expressly or inherently every limitation contained in the claim. *Rowe v. Dror*, 42 U.S.P.Q.2d 1550 (Fed. Cir. 1997). If any claimed element is absent from the reference, there is no anticipation. *Id.* A prior art reference must disclose each claimed element clearly enough to prove its existence in the prior art. *Motorola, Inc. v. Inter-digital Tech. Corp.*, 43 U.S.P.Q.2d (Fed. Cir. 1997).

It is not enough, however, that the prior art references disclose all the claimed elements in isolation. Rather, as stated by the Federal Circuit, "[a]nticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim. *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 221 U.S.P.Q. 481, 485 (Fed. Cir. 1984). The Federal Circuit has indicated that "[i]n deciding the issue of anticipation, the trier of fact must identify the elements of the claims, determine their meaning in light of the specification and prosecution history, and identify corresponding elements disclosed in the allegedly anticipating reference." *Id.* The anticipation determination is to be viewed from the perspective of one having ordinary skill in the art. There must be no difference between the claimed invention and the reference disclosure, as viewed by a person of

ordinary skill in the field of the invention. *Scripps Clinic & Research Found. v. Genentech Inc.*, 18 U.S.P.Q.2d 1001, 1010 (Fed. Cir. 1991).

In determining whether a claim is anticipated by the prior art, the claims must first be construed. Claims must be construed to give them the same meaning for purposes of both an infringement analysis and a validity analysis. *Kegel Co., Inc v AMF Bowling, Inc.*, 127 F.3d 1420, 1429, 44 U.S.P.Q.2d 1123 (Fed. Cir. 1997). If claims are misconstrued, a finding of anticipation will be reversed unless the error was harmless. *Gechter v. Davidson*, 43 U.S.P.Q.2d 1030 (Fed. Cir. 1997).

During patent examination, the pending claims must be “given their broadest reasonable interpretation *consistent with the specification*.” *In re Hyatt*, 54 U.S.P.Q.2d 1664, 1667 (Fed. Cir. 2000). (Emphasis added.) Manual of Patent Examining Procedure, Eighth Edition, Revision 1 (February 2003) (“MPEP”) at Section 2111.

Arsenault, et al. nowhere discloses, in a manner consistent with a reasonable construction of Appellant’s Claims 1, 10, and 26, either the *announcement* of connection information or the *announcement* of a content description. The customary and ordinary meaning of “announcement” is a “public notification or declaration.” *Merriam Webster’s Collegiate Dictionary, Tenth Edition* (1993) at p. 47. It is clear from Appellant’s Detailed Description that Appellant’s announcements of connection information and content description are public in at least the sense that the announcements are broadcast to users’ receiving systems 16. Those receiving systems may include a receiving circuit 14 in the form of, for example, a TV tuner. The Final Office Action erroneously relies on the allocation table, or “map” 30 to anticipate Appellant’s announcement of connection information. Similarly, the Final Office Action

erroneously relies on the input data stream 20 disclosed in Arsenault, et al. to anticipate Appellant's announcement of content description.

However, the output of map 30 of Arsenault, et al. is clearly not an "announcement" in any reasonable construction of that term. Map 30 of Arsenault, et al. is coupled only to processor 15, which itself is a constituent component of an uplink facility 10. That is, the output of map 30 is not publicly declared or disseminated. Its distribution is restricted solely within uplink facility 10.

Similarly, the input data streams 20 are coupled only from content providers to processor 15 of uplink facility 10. That is to say, neither the connection information (if any) provided by map 30, nor the content description provided by input data streams 20 to processor 15 constitute, in any reasonable sense, an "announcement", as is required by Appellant's Claims 1, 10 and 26. Rather than being the subject of any degree of public dissemination, the information provided by map 30 and by input data stream 20 in Arsenault et al. is provided in a very restricted manner only to processor 15 of uplink facility 10.

Accordingly, Appellant respectfully requests that the rejection of independent Claims 1, 10 and 26 under 35 U.S.C. §102(b) based on Arsenault, et al. be reversed.

Claims 2, 3 and 5-9 are dependent, directly or indirectly, from Claim 1 and are, for at least this reason, likewise patentable under 35 U.S.C. § 102(b) over Arsenault, et al. Additional arguments for the patentability of Claims 5-8 are provided in Section VIII.B below.

Claims 11-13 are dependent from Claim 10 and are, for at least this reason, likewise patentable under 35 U.S.C. §102(b) over Arsenault, et al. Additional arguments for the patentability of Claim 13 are provided in Section VIII.B below.

Claim 28 is dependent from Claim 26 and is, for at least this reason, likewise patentable under 35 U.S.C. § 102(b) over Arsenault, et al.

B. Claims 5-8, 13 and 27 Are Patentable Under 35 U.S.C. §102(b) Over Arsenault, et al.

Appellant's Claims 5-8 are dependent directly or indirectly, from Claim 1 and are, for at least the reasons advanced above with respect to Claim 1, likewise patentable under 35 U.S.C. §102(b) over Arsenault, et al.

Appellant's Claim 13 is dependent from Claim 10 and is, for at least the reasons advanced above with respect to Claim 10, likewise patentable under 35 U.S.C. §102(b) over Arsenault, et al.

Moreover, each of Claims 5, 8, 13 and 27 recites as a limitation an identifier that is used to link the first announcement (connection information) to the second announcement (content description information). In one embodiment of the invention, as illustrated in Appellant's Figure 3 and described in Appellant's Detailed Description at, for example, page 13, line 12 through page 15, line 19, an identifier may be included in the content description 38. When connection information 39 is subsequently received (at a user's receiving system 14, for example) it may be stored. The identifier that was included in the earlier received content description may then be used to link to the connection information that is appropriate to the content.

With respect to this basis for the rejection of Appellant's Claims 5, 8, 13 and 27, the Final Office Action erroneously relies on the map select ID 98 that is depicted in Figure 7 of Arsenault, et al. and described in Col. 25, line 18 through Column 26, line 2 of the Detailed Description of Arsenault, et al. In this regard, the Final Office Action asserts, without support, that "map service identifiers 98...link the description to the connection." Such is simply not the case. There is no support in Arsenault, et al. for this proposition. In fact, the only functionality

attributed by Arsenault, et al. states that “[w]here multiple maps and/or submaps are maintained according to certain aspects of the present invention, a map select identifier 98 may be appended to the map data....” That is, in Arsenault, et al. map select identifiers 98 are used merely to distinguish among maps and/or submaps. The map select identifiers do not serve to link a content description to connection information, as required by Appellant’s Claims 5, 8, 13 and 27.

Furthermore, when read in the context of the respective independent claim from which it depends, it is clear that each of claims 5, 8, 13 and 27 requires that (i) the identifier that links the announcement of connection information to the announcement of content description be included in the announcement of content description, and (ii) that the announcement of content description be transmitted before any assignment of connection. It appears that the Final Office Action has disregarded these additional aspects of Appellant’s Claims 5, 8, 13 and 27. Inspection of Arsenault, et al. at Column 25, lines 41, 42 and Figure 7 establishes that the map select identifier 98 is transmitted *concurrently* with the local map update information. That is, map select identifier 98 is NOT transmitted before connection assignment is made, as in required by Appellant’s Claims 5, 8, 13 and 27.

In view of the above, Appellant respectfully submits that the rejection of Claims 5, 8, 13 and 27 are, for the additional reasons articulated above in this Section V.B, patentable under 35 U.S.C. § 102(b) over Arsenault, et al. Accordingly, the rejection of those Claims is requested to be reversed.

Appellant’s Claims 6 and 7 are dependent from Claim 5 and are, for at least this reason, likewise patentable under 35 U.S.C. § 102(b) over Arsenault, et al. Reversal of the rejections of these Claims is also requested.

C. **Claim 4 Is Patentable Under 35 U.S.C. §103(a) Over Arsenault, et al. In View of Yoshinobu, et al., et al.**

Appellant's dependent Claim 4 is directed to a method in which, *inter alia*:

(i) there is transmitted an announcement that includes connection information for content:

(ii) prior to the transmission if the announcement that includes connection information, there is transmitted an announcement of a content description that is arranged with at least two levels of granularity; and

(iii) each of the levels of content granularity in the content description announcement is linked to connection information for the granularity.

In rejecting Claim 4, the Final Office action simply asserts that "[e]ach level of granularity for content description is disclosed in Yoshinobu, et al. is *inherently* linked to the same connection information for said level of granularity." Final Office Action at page 10. (Emphasis added.) It appears that this assertion is predicated entirely on text that appears at Column 11, line 53 through Column 12, line 2 of Yoshinobu, et al.:

Usually, at least one kind of items of the program sub information SB is identical with one of the kind of item 55 of the main program information, which serves as a link when the kind of item of the program subinformation SB is sought from the kind of item of the main program information.

The ID-corresponding list data 24, in this example, comprises, as shown in FIG. 1C, a data for a plurality kind of items, and ID list data corresponding to each of plurality kind of detailed items. Namely, the leading part is at first defined as the header information 31 containing identification information indicating that the packet is the ID-corresponding list data 24. After the header information 31, follows the list data 32 for various kinds of classification items in the scheduled program information under broadcasting as the index data and, further, ID-corresponding list data 33-36 follow thereafter.

However, reliance on the above-referenced passage from Yoshinobu, et al. as a basis for the rejection of Appellant's Claim 4 is unwarranted.

Examination of the text preceding the cited passage from Yoshinobu, et al. informs the significance to which Yoshinobu, et al. may properly be put. Specifically, Yoshinobu, et al. merely discloses a data structure in which program information (“PG”) comprises a program ID (for “identification data”). See FIG. 2 of Yoshinobu, et al. That is, the program ID identifies a given program by music, sports, news, etc. Yoshinobu, et al. also indicates that a program may be constituted from a number of elements. For example, a music program may comprise elements in the form of individual music numbers, each of which is identified by a “program subinformation SB.” Because the music program is identified by a specific program ID (i.e., the data item that corresponds to music) that is identical to (at least one of) the kinds of items in program subinformation SB, the subprogram may, in this sense, be “linked” to the main program through the common program ID. That being said, there is simply no similarity between the “linking” of a main program to a subprogram as disclosed by Yoshinobu, et al., and the “linking” of levels of content granularity to connection information as disclosed and claimed by Appellant in Claim 4.

The Final Office Action asserts that “[e]ach level of granularity for content description as disclosed in Yoshinobu, et al. is *inherently* linked to the same connection information for said level of granularity.” This assertion is simply not supported by the subject matter disclosed by Yoshinobu, et al., or by prevailing patent law. In order to validly maintain a rejection based on a purportedly inherent feature of a reference, that feature must necessarily exist in the reference, and its existence must be apparent to an ordinarily skilled artisan. *Glaxo Inc. v. Novopharm Ltd.*, 34 U.S.P.Q.2d 1565, 1566 (Fed. Cir. 1995), *cert. denied* 116 S. Ct. 516 (1995); *Continental Can Co. USA v. Monsanto Co.*, 20 U.S.P.Q.2d 1746, 1749 (Fed. Cir. 1991). Appellant respectfully submits that this prerequisite has not been satisfied by Yoshinobu, et al., and has been ignored in

the Final Office Action. That is, although it may be admitted *arguendo* that Yoshinobu, et al. discloses a main program and a subprogram that may be “linked” through a common program ID, there is no disclosure, express or inherent, in Yoshinobu, et al. of a technique for linking content description to connection information. Although Yoshinobu, et al. arguably discloses linking a main program to a subprogram, there is no suggestion or motivation in Arsenault, et al. or Yoshinobu, et al. of manner in which those references may be combined or modified so that connection information may be linked to an announcement of content description. For its part, the Final Office Action identifies now.

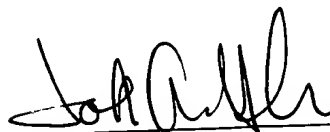
Furthermore, Appellants dependent Claim 4 requires that the linking of content description to connection information, wherein the content description has at least two levels of granularity, occurs in the context of a method wherein the content description is transmitted before the connection information. Therefore, the linking identifier that is included in Appellant’s content description announcement may be used to find a later-transmitted connection information. No plausible combination of, or modification to, Arsenault, et al. and Yoshinobu, et al., et al. results in or suggests these aspects of Appellant’s Claim 4.

Accordingly, Appellant respectfully requests that the rejection of Claim 4 be reversed.

IX. CONCLUSION

Inasmuch as the rejection of Appellant’s Claims 1-13 and 26-28 in all respects erroneous, Appellant respectfully requests that the rejection of the Claims be reversed.

Respectfully submitted,



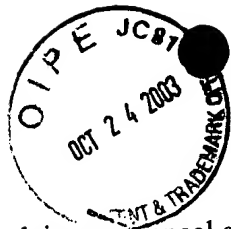
Date: October 20, 2003

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APPENDIX OF CLAIMS

The claims on appeal are:

Claim 1 (previously presented): A method comprising;

transmitting content;

transmitting a first announcement including connection information for said content; and

transmitting a second announcement including a content description for said content, said second announcement transmitted before any assignment of connection has been determined for said content.

Claim 2 (original): The method of claim 1 including transmitting said first announcement after transmitting the second announcement.

Claim 3 (original): The method of claim 2 including arranging said content description with at least two levels of granularity.

Claim 4 (original): The method of claim 3 including linking each of said granularity levels to connection information for said granularity.

Claim 5 (original): The method of claim 1 further including providing a service identifier with said second announcement to link with said first announcement.

Claim 6 (original): The method of claim 5 including specifying the location of service in said connection information.

Claim 7 (original): The method of claim 6 further including transmitting ancillary information with said content.

Claim 8 (original): The method of claim 2 further including providing an identifier to link said first and second announcements.

Claim 9 (original): The method of claim 1 wherein transmitting said connection information includes transmitting a data program guide.

Claim 10 (previously presented): An article comprising a medium for storing instructions that cause a processor-based system to:

transmit content;

transmit a first announcement including connection information for said content;

and

transmit a second announcement including a content description for said content, said second announcement transmitted before any assignment of connection has been determined for said content.

Claim 12 (original): The article of claim 11 further storing instructions that cause a processor-based system to arrange said content description with at least two levels of regularity.

Claim 13 (original):. The article of claim 11 further storing instructions that cause a processor-based system to provide an identifier to link said first and second announcements.

Claim 26 (previously presented): A processor-based system comprising:

a processor;

a transmitter coupled to said processor to transmit a first and second announcement and video content, said first announcement including connection information for said content and said second announcement including a content description for said content; and

storage coupled to said processor to store a template for said first announcement, said template formed before said connection information is available.

Claim 27 (original): The system of claim 26 wherein said transmitter transmits an identifier that may be used to link said first and second announcements.

Claim 28 (original): The system of claim 26 wherein said transmitter transmits said second announcement before said first announcement.

AF2707

TRANSMITTAL OF APPEAL BRIEF (Large Entity)

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In Re Application Of: Jeffrey L. Huckins

Serial No.
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Examiner
Michael W. Hoye

Group Art Unit
2614

Invention: Providing Content Description and Connection Information In Digital Broadcast Networks

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Signature

Dated: October 20, 2003

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